

Utility Patent
Ser. No. 10/820,934

REMARKS / ARGUMENTS

Reconsideration of the application as amended is respectfully requested.

Before entry of the present amendment, Claims 1-8 were pending. Claim 4 has been canceled for ease of prosecution in that it narrows and focuses the grounds for rejection. Claims 1-3 and 5-8 were rejected under 35 U.S.C. 102(b) as being anticipated by Nelson.

In undertaking to determine whether one reference anticipates the claim(s) of an application under 35 U.S.C. § 102(a), § 102(b) or § 102(e), a primary tenet is that the reference must teach every element of the claim(s). "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the . . . claim." Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Each and every element of the claimed invention must be disclosed in a single prior art reference "arranged as in the claim." Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co., 221 U.S.P.Q. 481, 485 (Fed. Cir. 1984).

To briefly describe each, the Nelson patent describes a valve for a garden hose, and is particularly adapted for use with common garden hoses for sprinkling lawns. (Col 1, line 2-4). The object is to provide a valve within the hose line itself, rather than at its terminus where the sprinkler would be. (Col. 1, line 21-23). In fact, the invention itself is a valve, as shown by having a valve body 10 and claiming "A valve adapted....". The main structural feature of this valve is to have a lever disposed within a recess such as not to be actuated when dragged along the ground.

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By contrast, the present invention, is a *guard* for a shut-off valve guard. The *guard* has a recessed aperture to allow access to a valve lever without having to remove or displace the guard, i.e. in-situ operation. The *guard* forms a unitary body designed to circumscribe a water supply line and more particularly, a shut-off valve in the water supply line. (Claim 1). This *guard* body has a prolate shape (claims 6) and can be fabricated from plastic. (Claim 7). Further, the *guard* has a pair of gaskets for preventing the guard from excessive movement along said water supply line during operation. (Claim 8).

There is far from an identical invention shown between these invention as is required to sustain a rejection under 35 U.S.C. 102(b). Therefore, in view of foregoing amendments and clarifications, the applicant submits that allowance of the present application and all remaining claims, as amended, is in order and a formal Notice of Allowance is respectfully requested at the earliest possible date.

Respectfully submitted,


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